

Scott R
Matt G - F.B.I.
John Kaiser

Oct. 19, 2010 ~~11AM~~

(c)
(h)

2002 Vacation - Hawaii - after 9/11/01 = Main Island
- saw property = cheap w/ Chris Manfredi
\$700K purchase price = \$100K down payment
= (JK) - trying to raise \$
= had properties in NY to sell (JK)'s part \$
= couple homes -

(CM) had friend = James Milang - lives on Long Island
Phil Kennen know

introd to (JK)

starting
closings

had hockey clients/investors = to start purchasing property in Hawaii

2005 closed on some more parcels
= 6,000 acres total = kept adding/buying more adjacent properties

= Lehman - comes in = Windwalker - developer -
Scout Lehman brought in

(JK)'s investment amt = \$1.1M - (JK)

family members to

(JK) \$1.2M = sold house in NY
took \$1.1M to pay family off

(1)

= Masood Maffi - Lehman Bros.
- got a piece of Hawaii deal

260 acres - 1st piece of Hawaii investment
just kept buying/expanding ~~to~~ 6,000 acres total

= Alan Warden = Windwalker = Accountant/contact

(PK) met Tondy = 2x in NYC

(1)
times

in NYC = Trust (2003) = Tondy restaurant
discuss:

there
@

(PK)

(KJ)

- with a girl

= discuss project in Hawaii
= funding in Mexico

(2)
time

another time @ a bar = in NYC = bar

- discussed Hawaii

- lending \$ from Hawaii to Mexico

(KJ)

(JK)

(JK) - not sure how (KJ) + (PK) met

(JK) = saw (KJ) in Mexico couple times

again
discussed

(KJ) wanted to borrow \$ from Hawaii to Mexico
would pay back after closing

(2)

brought up borrowings & from Hawaii project
brought up borrowings & from Hawaii project
brought up borrowings & from Hawaii project

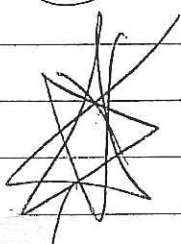
borrowed millions from Hawaii project

- 1st was going to be \$100'sk = not millions

- (JK) not happy & gmt started to grow to millions of \$ to Mexico

discussed
Brian Beard
(PK)

= was Agreement to borrow & from Hawaii -



= (KJ) to (JK) / (KJ) - don't worry all it will come back; get repaid

- in NYC

discussed & from Hawaii to Mexico

- just to be used for Mexico

↓
no other project

Question to (JK):

2016 = update Letter on Hawaii project -

- (JK) - yes, I recall letter

(PK) - made these many times III

(JK) - never got & back from (KJ) / Mexico

(JK) -

Eufora

2007 = (JK) met Tommy Constantine in AZ @ (PK)'s house

(TC) = intro'd as self made millionaire to (JK)

(JK) = heard about Eufora thru players / guys that Eufora - company will be big one day

in beginning = need couple hundred thousand @ first

(JK) = \$2.2M - over 3yr period invested

(JK) borrowed from family - majority of \$
- mother
- brothers - Keith

(JK) = includes (JK)'s friends \$ -
- (JK) - got 4 friends to invest

Donny Rae → ex-hockey player - lives in AZ
- bringing investors in Hawaii

(JK) = met (DR) - 1yr ago = heard of him prior
- when put house for sale in AZ - (JK)'s house
- Brian Berard & (JK) own - 2 1/2 yrs ago bought
- (JK) - raised \$ from friends to buy house in AZ

(4)

- Tim Gaarn - used to work in banking industry
 - 1st intro to Lehman from (TG)
- not invested in Hawaii

= (TC) - trying to ~~raise~~ ^{fund} \$ for Hawaii w/ own funds
- suppose to use own \$ to fund Hawaii

ultimately ~~\$~~ came from friend of (TC)
B4M - waikapuna closing

Robert Gaudet

(JK) met (RG) - \equiv 9.1% flr
 \equiv knows people in Mexico

~~tried~~ to get \$ for Hawaii

- believe above indiv. getting paid for getting \$
 \equiv (RG)
 \equiv (TG)

1st heard

2005 \equiv heard of Eufora from (JK) & players

(TC) \equiv showed (JK) Agreements w/ banks & credit card companies
 \equiv wanted increase ownership in Eufora \rightarrow (TC)'s own shares in
 \rightarrow appeared to be great company \rightarrow (JK)

and Mark Ambrosio
= Dish Zero = (TC) running \$ from Eufora
Taser = accounts to these investments
Sergei Gonchar \$ going to

all (JK) investment \$ to (TC) went from
(JK) = TD Bank accts

//
(JK) - rec'd couple hundred thousand back
from (PK)

(JK) from granted \$ for renovation (PK)
house in AZ

(PK) ← (JK) - gave (PK) \$ from his house sale in
Smithtown, NY
- (PK) never repaid
(PK) needed \$
for Myrick
lawsuit

= (JK) - living in Vegas - Condo
- house in AZ is wife's from divorce

(JK) = Palms Condos

(TC) - new Malibu in Vegas

2007
or
2008

→ 1 invested - (JK) friends / 3

① Keith Kaiser - brother

② Dobby

③ = and doctor friend of (JK) = Police Officer

\$550K together
for penthouse
@ Palms

= Jay McKee } on Note = 2 separate units
= Mike Peca }

get 15%
from #

- promised by (TC)

= closing went through (TC)

went into it
to buy & sell
quickly

= (JK) - was not involved in Palms R/E
- as far as (JK) remembers

★ Global Settlement Fund - set-up by (TC) = w/ (CT)
- pay Ethel Murray back - from Palms
- Eufora - \$
- Mexico - players \$
(JK)

used to straighten \$ investment mess which
happened throughout years.

Eufora = (TC) instructed Ronald Richard to send \$ to Eufora
Palms acct so he can distribute to players = GS Fund \$
(TC) instructed (JK) friends - investment \$ - to go to
Ronald Richards - not Eufora (7)

(JK) involved w/ → renovated - (JK)'s brothers did work
= Hermosa Beach - house - (PK) - owned the house sold
- (PK) - owes \$ from house construction / renovate

- (JK) - brothers worked on house → took 4 months

(JK) - raised funds to buy house from:

→ (JK) - mother

- brothers

- friends

→ (JK) - not rec'd \$ from (PK) on house yet

→ (PK) - will get \$ from Hermosa Beach house when
AZ house sells

→ on market now

(JK) met (NJ) in Hawaii

* Nick James -

→ did stuff for playboy racing + (TC)

(NJ) called (TC) to get married

\$70k-80k - asked \$ from (PK) = (TK) said no

→ borrowed from (PK) →

(NJ) did not work or invest in Hermosa Beach house

(8)

Los Frailes - investment

~2005

-(JK) + has friends invested in
~\$1M

(JK) - included in the \$1M

purchase property + develop

↓
\$1M used to purchase property ⇒ sell parcels to
get \$ back from 1st investment

→ Bobby Goudet - told (JK) about investment

(JK) - not involved in Los Frailes

↓
does have clients involved / hockey players

(JK) - went down there w/ friends to see

(JK) - 6 mos. ago in Cabo ⇒ Tandy project

⇒ golf course - done

⇒ suppose to put up condo

⇒ never went to North property
DDM

(9)

BSA-6M - (KJ) borrowed Fred loaned

(KJ) - borrowed from Hawaii project - to Mexico

(KJ) borrowed from Glen Murray too for Mexico

(KJ) might have repaid couple hundred thousand to Hawaii

(JK) - did see Hawaii bank acct statements

- accountant for Hawaii project

(JK) not rec'd K-1's ever

(JK) will get name of accountant before Lehman comes in.

(JK) never rec'd K-1's from Hawaii

= took two yrs to get it from Allan Warden

will receive
K-1's soon

END
1:15 PM

(10)



Day5.txt

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AMERICAN ARBITRATION ASSOCIATION

DIANA NOLAN; OWEN NOLAN,

Claimant,

v.

PHILLIP A. KENNER; STANDARD
ADVISORS, INC.; STANDARD
ADVISORS, LLC,

Respondents.

owner(s) or Reputed Owner(s)

NO. 76 148 Y 00223 08 DEAR

TRANSCRIPT OF PROCEEDINGS

Volume IV

(Pages 826 - 1100)

Phoenix, Arizona
May 30, 2009
8:34 a.m.

Prepared By: MARY E. MANNING, RPR
Certified Reporter
Certificate No. 50444

Prepared for:

827

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3 TOMMY CONSTANTINE

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1 APPEARANCES:

2 Arbitrator Meyerson
Arbitrator Gordon
3 Arbitrator Campbell

4

5 For the Respondent:

6 LAW OFFICES OF RONALD RICHARDS & ASSOCIATES
By Ronald Richards, Esq.
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9 By Thomas M. Baker, Esq.
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10 Suite 10
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11

12

13

For the Claimants:

BUCHALTER NEMER

Day5.txt
17 MR. RICHARDS: John Kaiser.

18

19 JOHN KAISER,
20 having been first duly sworn, was examined and testified as
21 follows:

22

23 DIRECT EXAMINATION

24 BY MR. RICHARDS:

25 Q. Can you tell the panel what your background and

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1 training in law enforcement is?

2 A. I was a New York City police officer for
3 approximately six years, and I went to Suffolk County, where
4 I retired from, Suffolk County Police Department in New
5 York. I was a defensive tactics instructor, trained
6 throughout the country and world.

7 I specialized in narcotics and taking guns,
8 working both. I also did some community orientation of
9 police enforcement out in Suffolk County.

10 Q. Are you presently the manager of any LLC in the
11 state of Hawaii?

12 A. Yes.

13 Q. What's that?

14 A. Na'Alehu Ventures.

15 Q. Are you familiar with the properties that were
16 subject to the Lehman Brothers financing that are issued in
17 this litigation?

18 A. Yes, I am.

19 Q. And are you aware that the Nolans are investors
20 in Little Isle IV, which is part of a group of LLCs that
21 owns 50 percent of a joint venture with Windwalker, the

Day5.txt

22 Nolans and Alan Wordan?

23 A. Yes, I have.

24 Q. Have you spoken to the Nolans on the phone
25 before?

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1 A. Yes.

2 Q. What was that conversation about?

3 A. I had a couple of conversations. We also
4 talked -- they were trying to build a house, so I was
5 trying to help him out. I don't think we ever met. They
6 were very nice -- they were very nice people.

7 The last conversation I had was in reference to
8 the house, if they needed help on it or any kind of -- they
9 were trying to get a house built.

10 Q. Now, with respect to cash, the entities that made
11 up your investor pool with Little Isle IV, did they have
12 some cash that was sitting around waiting for a potential
13 closing to occur?

14 A. Yes.

15 Q. Tell us what your experience was with respect to
16 that money right at the point there was a decision made to
17 start loaning money to Mr. -- that Mr. Kenner had made a
18 decision to start loaning some of that investor money to
19 Mr. Jowdy.

20 A. Any money that was allocated towards land for the
21 Hawaiian Investment Group that wasn't being used -- we
22 ended up ultimately purchasing about 6,000 acres. There
23 were some parcels we were looking at.

24 The due diligence in Hawaii takes a long time, so
25 if you find something, it takes a long time to actually do

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1 all the due diligence to purchase it. So if we had some
2 funds that were -- that was stagnant and that warrant
3 purchasing land, we would utilize it for a loan, so we
4 actually made some money off of it.

5 Q. Just so the panel doesn't get confused, I'm
6 talking -- I want to direct your attention prior to April
7 26th, 2006. Were you a manager prior to that time?

8 A. No, I was not.

9 Q. At that time were you an investor?

10 A. Yes.

11 Q. How much of your own money did you have invested
12 in this Hawaii project?

13 A. 1.1 million.

14 Q. Dollars?

15 A. Dollars.

16 Q. Did Mr. Kenner make you aware that he was going
17 to be lending some money?

18 ARBITRATOR CAMPBELL: Can you just clarify for me
19 when he went from an investor to being an actual manager of
20 the property again?

21 Q. BY MR. RICHARDS: August of 2006 -- after the
22 Lehman Brothers -- after the Lehman Brothers refinancing
23 did you become a manager?

24 A. It wasn't right away. I actually thought it was
25 in '07. I don't have --

923

1 Q. '07?

2 A. I don't have the document in front of me.

3 MR. RICHARDS: Prior to '07 he was an investor
4 only.

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5 THE WITNESS: I'm actually the person who found
6 the property in 2002 and who funded it prior to Mr. Kenner.

7 Q. BY MR. RICHARDS: Okay. And at some point you
8 were made aware as an investor that this money was going to
9 be lent on a short-term basis to Mr. Jowdy?

10 A. Yes.

11 Q. And what was your understanding of how it was
12 supposed to get paid back?

13 A. Well, the first -- my first concern was to make
14 sure that he had some collateral so it could get paid back,
15 which he did. It was a parcel in Mexico, on North Baja,
16 and that was his collateral. I think he had 70 percent
17 interest, and I think the property was appraised maybe at
18 30-, 35 million.

19 Q. Was Mr. Jowdy at that time someone that appeared
20 credible to you?

21 A. Yes.

22 Q. Why is that?

23 A. Well, the first thing, Mr. Kenner told me he was,
24 and I met him a couple of times. He seemed -- a big thing
25 it was 15 percent interest rate, and I thought it was a

924

1 good move.

2 Q. Did Mr. Jowdy have anything to do with bringing
3 Lehman Brothers to your Hawaii project?

4 A. Yes.

5 ARBITRATOR MEYERSON: I'm a little confused. I
6 understood the warrants were made before 2006. He didn't
7 become the manager until 2007 --

8 MR. RICHARDS: You're right.

9 ARBITRATOR MEYERSON: And so was his status at

Day5.txt
10 the time simply an investor?

11 MR. RICHARDS: Yes. That's why I'm offering him
12 as a witness. That's correct.

13 ARBITRATOR MEYERSON: I thought you were offering
14 him as some special knowledge about --

15 MR. RICHARDS: He found the property. He had a
16 lot of knowledge, but I wanted to show you that he became a
17 manager later, but at the time --

18 ARBITRATOR MEYERSON: He was an investor in the
19 same status as the other investors at the time of these
20 transactions?

21 MR. RICHARDS: \$1.1 million.

22 ARBITRATOR MEYERSON: I understand.

23 Q. BY MR. RICHARDS: So in your investor pool, your
24 money was with all the other investor money, correct?

25 A. Correct.

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1 Q. So at the time was there any representation about
2 getting paid back this money when the Cabo deal closed?

3 A. It was supposed to be a short-term loan. I
4 thought it was three to six months, because I had also
5 raised some other funds from family and friends that were
6 getting a little antsy about it.

7 Q. Go ahead.

8 A. That's it.

9 Q. Now, you retired from the police due to a medical
10 reason?

11 A. Yes.

12 Q. An injury on the job?

13 A. Injuries, yes.

14 Q. You'd been dealing with Mr. Kenner now for a

Day5.txt

15 couple of years?

16 A. Yes.

17 Q. Have you ever seen him do anything inappropriate?

18 A. No.

19 Q. As a police officer you have no problem arresting

20 Mr. Kenner if you saw him stealing your money basically?

21 A. I certainly would.

22 Q. And you have never been convicted of any offense,
23 correct?

24 A. No. No.

25 Q. You are also an expert in martial arts?

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1 A. Correct.

2 Q. And you have \$1.1 million of your money in this
3 deal?

4 A. Correct.

5 Q. Did anybody at the time anticipate that Mr. Jowdy
6 wasn't going to pay you guys back when the Cabo deal
7 closed?

8 A. Say that again.

9 Q. At the time this money was lent to Mr. Jowdy to
10 be spent in the Mexican project, did anybody anticipate he
11 wasn't going to pay you back when the Cabo deal closed, the
12 Lehman's Cabo deal?

13 A. No. Otherwise I wouldn't have lent it. I
14 wouldn't want to go down that route.

15 Q. Did Mr. Jowdy -- as far as the credibility issue,
16 why did you feel it was credible that he was bring -- why
17 did it give Jowdy credibility that he bought Lehman to
18 Hawaii?

19 A. He had a very good relationship with, I believe
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20 his name is Masood, who actually he was the lead guy for
21 Lehman, and they were very close.

22 Q. Did Mr. Jowdy appear to be someone that was
23 credible and had assets or someone that was broke and a
24 thief?

25 A. No. He had assets. I believe he was very

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1 credible at the time.

2 Q. As you're aware he hasn't paid the money back,
3 right?

4 A. Correct.

5 Q. Do you blame Mr. Kenner for him not paying the
6 money back?

7 A. No.

8 Q. When you made the decision -- or when you were
9 made aware that some of this money was going to be lent,
10 rather than sitting idle in an account, at 15 percent, did
11 you know there were some risks?

12 A. At the 15 percent -- actually, the loans, I
13 didn't think they were going to be -- to me it wasn't a
14 risky loan.

15 Now, some of the land purchases were a risk. It
16 was a few miles away from a volcano. It was a tough sale.
17 But the loans -- even investors that I brought in, I said,
18 Listen. This guy -- I gave him the whole story about Ken
19 Jowdy backed by land. It's good. Better than your money
20 sitting somewhere.

21 Q. And being in the course of the years you've been
22 over in Hawaii dealing with this, have you met a lot of
23 investors of Mr. Kenner?

24 A. Yes.

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25 Q. Has this ever been a secret that Mr. Kenner lent

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1 this money to Mr. Jowdy?

2 A. No.

3 Q. Was this a transaction that, as your view as an
4 investor was open and disclosed to everybody?

5 A. It was open. There was no secret handshakes or
6 nothing like that.

7 Q. Even now, sitting here in May of 2009, is there
8 anything that you've uncovered, as someone that obviously
9 knows how to investigate, that Mr. Kenner has done anything
10 inappropriate throughout these transactions?

11 A. No.

12 Q. Not one complaint?

13 A. None.

14 MR. RICHARDS: I'll pass the witness.

15 ARBITRATOR MEYERSON: Thank you.

16

17 CROSS-EXAMINATION

18 BY MR. MEEKS:

19 Q. Mr. Kaiser, how are you?

20 A. I'm hanging in there.

21 Q. Good. In 2000 -- at some point did Mr. Kenner
22 transfer --

23 MR. RICHARDS: Mr. Kaiser, just face the court
24 because they have to hear you.

25 Q. BY MR. MEEKS: At some point did Mr. Kenner

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1 transfer like 90 percent of his interest in the Na'alehu
2 entity to you?

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3 A. Yes.

4 Q. When did that happen?

5 A. In '07.

6 Q. Right. And why did that happen?

7 A. He needed some money. He was actually trying to
8 actively work out a negotiation with Mr. Jowdy.

9 Q. Okay. And you paid him for that?

10 A. Yes.

11 Q. How much did you pay him?

12 A. I don't recall the exact amount.

13 Q. Can you recall roughly?

14 A. 3- or 400,000.

15 Q. 3- or 400,000 for --

16 A. It was more of a -- if I can finish. It was more
17 of a loan. He always had an option to get it back, to get
18 out from under, so ...

19 Q. As of today you own 90 percent of Mr. Kenner's
20 interest in Na'alehu ventures?

21 A. That's correct.

22 Q. And do you recall on October 10th of last year
23 Mr. Kenner and Mr. Berard quitclaiming a deed to the

24 property here in Phoenix to you?

25 A. What's the address?

930

1 Q. It's in Camelback Country Club Estates. It says
2 it's a quitclaim to John R. Kaiser, trustee of the
3 Shangri-La Trust in 1999.

4 A. M'hum. Yes.

5 Q. What was the reason for that transfer?

6 A. I paid for the house.

7 Q. You paid for the house?

8 A. Yes. Myself and investors. Day5.txt
9 Q. And when did you pay for the house?
10 A. On the purchase.
11 Q. When?
12 A. I don't know. You have the document in your
13 hand.
14 Q. In October --
15 A. I want to say about a year ago.
16 Q. On October 3rd, 2008, you paid for this house?
17 A. Yes.
18 Q. How much did you pay?
19 A. 1.6-.
20 MR. RICHARDS: Well, don't confuse the witness.
21 You're looking at the quitclaim deed. Don't confuse --
22 ARBITRATOR MEYERSON: Direct your comments to me.
23 MR. RICHARDS: My --
24 ARBITRATOR MEYERSON: Hang on. If you have an
25 objection, make it.

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1 MR. RICHARDS: My objection is it's not proper
2 questioning if counsel has a document that he knows is not
3 the grant deed. He knows it's a quitclaim deed. He's
4 intentionally confusing the witness.
5 ARBITRATOR MEYERSON: I don't think
6 intentionally.
7 MR. RICHARDS: I'm not saying intentionally,
8 but --
9 ARBITRATOR MEYERSON: If you have any questions
10 and want to refer to a document, you're free to answer.
11 Q. BY MR. MEEKS: Was your name on the title to that
12 property when you purchased it?

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13 A. No.

14 Q. Whose name was on the title?

15 A. Mr. Kenner.

16 Q. Why was Mr. Kenner's name on the title?

17 A. Because I live in New York. He lives here, right
18 next to the place.

19 As far as doing renovation, the permit process --
20 I have four kids at home. I didn't want to be going back
21 and forth. It was just easier that way.

22 MR. MEEKS: No further questions.

23 REDIRECT EXAMINATION

24 BY MR. RICHARDS:

25 Q. Did you have any problem trusting Mr. Kenner to

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1 transfer the property to you at the time you wanted it
2 transferred?

3 A. No. Once I said I wanted it transferred, he did
4 it.

5 Q. That wasn't part of some underhanded secretion of
6 assets from Mr. Kenner, was it?

7 A. No. I know they had a forensic accountant that
8 charged \$120,000. I'm sure he could track it down, where
9 the funds came from.

10 Q. The bottom line is you had no problem trusting
11 Mr. Kenner to acquire this house for you, right?

12 A. Exactly right. Correct.

13 ARBITRATOR CAMPBELL: What side of management do
14 you do for the Hawaii properties?

15 THE WITNESS: My role has been basically, since I
16 became managing member, working on getting our K-1s back,
17 and reaching those milestones. That's my primary objective

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18 back and forth.

19 ARBITRATOR CAMPBELL: Is there any development
20 going on?

21 THE WITNESS: Right now all the permits in -- all
22 the permits on the property is in a holding pattern right
23 now in reference to the funding and as to the issue with
24 legal.

25 ARBITRATOR CAMPBELL: Do you spend a substantial

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1 amount of time out there on the Big Island?

2 THE WITNESS: I used to fly back and forth quite
3 a lot. Not anymore. I'm sure everyone knows -- windwalker
4 actually took over the day-to-day operation, who are our JV
5 partners.

6 ARBITRATOR CAMPBELL: They're doing most of the
7 work on it now?

8 THE WITNESS: They are still waiting for
9 infrastructure. Like I said, it's a very tough task to get
10 all the permit process. All that is up to date and ready
11 to go. We'll start digging as soon as we get some funding
12 again, which Alan is working on right now.

13 MR. RICHARDS: Just for the panel, I drew like
14 a -- what's this thing called when you have bubbles and
15 then the lines? Diagram? I had a diagram drawn for me
16 that I put on my computer. Would it help if I draw a
17 diagram of the various entities that make up the 50/50 --
18 once I saw it in a diagram it made sense.

19 ARBITRATOR CAMPBELL: No.

20 ARBITRATOR MEYERSON: Thank you very much.

21 MR. RICHARDS: I have one follow-up based on your
22 question.

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23 Q. BY MR. RICHARDS: Just so we're clear, windwalker
24 Holdings, slash, Alan Wordan, they're responsible now to
25 get the funding. They are in charge of the project?

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1 A. That is correct.

2 Q. Is that why you're not flying out there?

3 A. Windwalker actually took over the day-to-day
4 operation. So they're in charge of that unless -- any big
5 decisions, they'll notify me if something is going to
6 change, a big movement or to re-fund it again. Right now
7 they are just kind of crawling along.

8 Q. Do you think they are in a better position than
9 you are to get it funded?

10 A. Yes.

11 MR. RICHARDS: Thank you.

12 ARBITRATOR MEYERSON: No questions. Thank you
13 very much.

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FEDERAL BUREAU OF INVESTIGATION



Date of entry 09/09/2013

JOHN KAISER, date of birth (DOB) [REDACTED], was interviewed at the United States Attorney's Office in Central Islip, NY. Also present during the interview were SA Josh Wayne of the IRS and AUSA Carrie Capwell. After being advised of the identity of the interviewing Agent and the nature of the interview, KAISER provided the following information:

A few months after September 11, 2001, KAISER, his wife, CHRIS MANFREDI and his wife went to Hawaii for a vacation. MANFREDI had a friend who owned a place on the Big Island of Hawaii. While they were there, KAISER and MANFREDI decided to look for real estate. They ended up placing a down payment on a piece of land.

A friend of MANFREDI's, JAMES MILANA, told them that if they needed to raise money to close on the property, he knew of a guy, PHIL KENNER, who managed money for professional athletes. At some point, KENNER flew to Hawaii and met with KAISER and MANFREDI. KENNER said he was worth a lot of money and showed them an article in Forbes or Money Magazine that described how he managed money for high profiled people. KENNER told KAISER and MANFREDI that he wanted to get involved in buying the property and also wanted to purchase some of the surrounding property.

From 2003 to 2005, KAISER invested more money to keep the property. KENNER told him he had raised money from his hockey player clients to invest in the Hawaii properties.

In 2006, KENNER asked KAISER if he could raise one million for the project on a short term basis. KENNER needed a 30-60 day bridge loan and he would give an 8-10% profit. KAISER and some family and fiends gave KENNER the million dollars. After more than 90 days past and KENNER did not repay the one million dollars, KAISER's friends and family started to get antsy. KAISER decided to sell a property he owned in Smithtown, NY for 1.25 million dollars, so he could pay back his family and friends that gave KENNER the one million dollars.

At some point, KAISER, MANFREDI and KENNER had a meeting on the Big Island in Hawaii. MANFREDI told KASIER that KENNER was putting down deposits on land on the Big Island but not closing. MANFREDI asked KENNER

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what happened to the two million dollars that was recently raised. KENNER told MANFREDI and KASIER that he lost the two million in Europe while looking for funding for the project. MANFREDI questioned KENNER on the one million dollars that KAISER raised. MANFREDI said the money was not spent on the Hawaii project but instead the money was sent to Mexico for the investment with KEN JOWDY. KENNER said if KAISER's money went to Mexico, then he was 50-50 partners with KENNER in the project. MANFREDI told KENNER that he was scamming them. They also talked about financing the project through Lehman Brothers. MANFREDI's and KENNER's relationship fell apart after the meeting.

In June or July of 2006, KAISER, MANFREDI and KENNER had another meeting in Manhattan, NY. MANFREDI did not want to sign off on the Lehman Brothers closing to fund the Hawaii project. KENNER had previously told KASIER that if MANFREDI did not sign off on the deal, they would all lose their money. KAISER was upset after the meeting because MANFREDI did not want to sign off on the deal. KENNER spoke to MANFREDI and convinced him to sign off so the Lehman deal could go through.

KENNER told KASIER, after the Lehman Brothers funding, investors of the project would get 75-80% of their initial investment back. Investors ended up received approximately 40% back.

KAISER knows that former NHL player BRYAN BERARD invested \$100,000 in the Hawaii project through KENNER. KENNER was surprised that BERARD had only \$100,000 in the deal, since KENNER had said in the past that he raised millions of dollars from his NHL clients.

At one point, KAISER told KENNER that he needed some sort of documentation to show the one million dollars that was supposed to go to Hawaii ended up in Mexico. KENNER gave KAISER a document that stated if KENNER did not pay KAISER back, KAISER would end up 90% owner of BAJA VENTURES(BV). BV was the vehicle KENNER used to invest in the Mexico properties with JOWDY. When KENNER took KAISER to the property in Mexico, JOWDY did not acknowledge that KAISER was one of the partners in the project.

KENNER told KASIER, the profit they made from selling the house they had previously purchased in Hermosa Beach, CA was not in the bank account KENNER had set up. KENNER said he used 1.5 million dollars to buy a house in Pedregal, Mexico. KENNER was going to take a loan out on the house and then he would pay KAISER his share of the Hermosa Beach profit. KENNER also told him he wanted to get KASIER involved in other projects like EUFORA. While in Arizona, KASIER was introduced to TOMMY CONSTANTINE by KENNER. KENNER told KASIER that CONSTANTINE was worth approximately 90 million dollars and was the guy behind EUFORA. CONSTANTINE pitched the

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investment in EUFORA to KASIER. CONSTANTINE told KASIER that since KENNER had some of your money, he and KENNER would work out the percentage KASIER would receive in the company. KENNER ended up telling KASIER that \$275,000 of his money went to EUFORA.

In June 2008, KASIER, KENNER and one or two hockey players went to look at a property in Mexico called Los Frailes. KENNER told KASIER that \$500,000 of his Hermosa Beach profit went to the Los Frailes property and there was a buyer lined up already to buy a parcel. KASIER went to some friends and raised an additional \$750,000 that went to the Los Frailes property.

In the middle of 2008, KENNER told KASIER that he needed \$660,000 to close on condo units at The Palms in Las Vegas, NV. The money would come back in 60-90 days with a 15-20% profit. KASIER raised \$550,000 and sent it to KENNER. KENNER told KASIER that he and CONSTANTINE were the owners of the units. One of KASIER's friends, Dr. Frank Sconza, invested in the condo's. After a year went by and the money was not returned by KENNER, SCONZA told KASIER the other doctors that invested wanted to sue KASIER.

In the fall of 2006, KASIER and two other friends, Vincent Tesoriero and Thomas Milana, were trying to sell a piece of property they owned in Sag Harbor, NY. Apparently a female spoke to the broker and was willing to buy the property. The female ended up calling on behalf of KENNER. KASIER told KENNER the property was on the market because Milana wanted his money back. KASIER suggested KENNER just buy Milana's share of the property. KENNER said he wanted to buy the property in a company name, LED BETTER, and then KASIER and Tesoriero could buy back into the deal. KASIER said doing a full sale would cause them to pay the Peconic sales tax. KENNER said not to worry, that he would pay the tax. At some point, KAISER realized that BERARD invested the other half of the money for the property, not KENNER. Since KENNER did not put any money in the deal, KASIER and BERARD voted him out of LED BETTER. KENNER did confirm that he had no money in the deal to KASIER when he was confronted.

There were times that KENNER asked him to sign a document for the Hawaii project when KASIER was in a rush. KENNER had not finished creating the document and would tell him to just sign a blank piece of paper and he would take care of the rest.

Right before a few shareholders filed a lawsuit in Arizona against EUFORA and CONSTANTINE, KASIER met with CONSTANTINE in EUFORA's office. CONSTANTINE was talking about how EUFORA was about to hit it big. KASIER wanted to know what percentage he had in the company. CONSTANTINE told KASIER that KENNER claimed the money invested in EUFORA was KENNER's and not KAISER's. CONSTANTINE told KASIER, "if you think I'm bad you should

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get a load of what KENNER has done." CONSTANTINE also told KASIER that he was going to buy out the hockey players for 25 cents on the dollar. He called one player while KASIER was there, who said he would take the deal. Later KASIER called the player to say CONSTANTINE just told him EUFORA was about to explode. KENNER was texting KASIER while he was with CONSTANTINE asking him why he was still there and that it shouldn't have taken so long to meet with him. After the meeting, KASIER, DAVE BOYDON and KENNER met in a pizzeria. KAISER told KENNER that CONSTANTINE said KENNER was a bad guy. KENNER immediately ran out of the pizzeria, jumped a few fences and did not return. KENNER didn't call or speak to KASIER for a few months after the incident.

In early 2009, KENNER owed KASIER money. KENNER said that TIM GAARN owed him money and he was going to have GAARN send KASIER money. On at least two occasions, money was sent from GAARN's account to KASIER's account. Both times, KENNER told KASIER that he needed the money and to send the money to his personal account.

KASIER gave KENNER \$50,000 to help with attorney fees in the KRISTY MYRICK lawsuit.



DEPARTMENT OF THE TREASURY
Internal Revenue Service
Criminal Investigation



Memorandum of Interview

Investigation #: 1000259846 Location: Phone call
Investigation Name: Phillip Kenner
Date: October 2, 2014
Time: Approx. 1:50 PM
Participant(s): John Kaiser, Witness
Joshua Wayne, Special Agent
Matthew Galioto, Special Agent

On the above date and time Special Agents Wayne and Galioto spoke on the phone with John Kaiser. Agents asked Kaiser about the investment property in Mexico known as Frailes. Kaiser provided the following:

1. Nicholas Privitello and Jonathan Smith invested money in the Frailes property in Mexico. Their money was to be used to purchase more of the Frailes property.
2. It was never Kaiser's understanding that PHILLIP KENNER was selling his shares in the Frailes property to Privitello or Smith.
3. Kaiser was told by KENNER that from the sale of an investment property in Hermosa Beach, California that Kaiser and KENNER were partners on, KENNER sent money to Mexico for the Frailes investment for Kaiser. Initially KENNER told Kaiser that he (KENNER) sent \$500,000 from the proceeds of the sale of Hermosa Beach property for Frailes, he later told Kaiser that he sent \$1,000,000 down for Frailes for Kaiser.
4. Kaiser was aware that NHL players had invested in Frailes prior to Kaiser investing.

I began preparing this memorandum on October 10th, 2014, after refreshing my memory from notes made during and immediately after the interview with John Kaiser.

Joshua R. Wayne ^E
Joshua R Wayne
Special Agent